

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:)	
)	
CIRCUIT CITY STORES, INC., et al.,)	Case No.: 08-35653-KRH
Debtors.)	(Chapter 11)
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REVEREND DWAYNE FUNCHES,)	
Individually, and as Independent Executor of)	
the Estates of Travis Funches, Dione Funches,)	
and Dwayne Funches, Jr., Emily Funches,)	
Lovera Funches, and Shatira Funches,)	
Individually,)	
Movants,)	
)	
v.)	
)	
CIRCUIT CITY STORES, INC., et al.,)	
Respondent.)	

AMENDED MOTION FOR EXPEDITED HEARING

COME NOW THE MOVANTS, Reverend Dwayne Funches, also known as Bishop Funches, individually, and as Independent Executor of the Estates of Travis Funches, Dione Funches, and Dwayne Funches, Jr., Emily Funches, Lovera S. Funches, and Shatira Funches, individually (collectively, the "Movants"), by counsel, pursuant to 11 U.S.C. §§ 105(a) and 362(d), the *Federal Rules of Bankruptcy Procedure*, Rules 4001 and 9014 (the "Bankruptcy Rules"), the *Local Bankruptcy Rules* of the United States Bankruptcy Court for the Eastern District of Virginia, Rules 4001(a)-1 and 9013-1(N) (the "Local Rules"), and all other applicable

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legal and equitable authorities, and state the following as and for their amended motion for an expedited hearing (“Amended Expedited Motion”) regarding their previously-filed *Motion for Relief from Automatic Stay of 11 U.S.C. § 362(A) with Supporting Memorandum of Law and Request for Shortened Notice and Expedited Hearing*, filed on November 27, 2008. **This Amended Expedited Motion is filed as a separate pleading rather than in the previously-filed combined manner with the accompanying Motion for Relief and supporting memorandum and the prior proposed order which was attached and contained the Local Bankruptcy Rule 9013-1(N) certification.**

The Movants herein respectfully renew their prior request and move the Court to enter an order granting them an expedited hearing on **December 3, 2008, at 11:00 A.M.** At hearing, the Movants will seek from the Court, if their Amended Expedited Motion is granted, immediate and limited relief from the automatic stay in the above-captioned matter, so that they may continue with pre-petition state court litigation pending in Chicago, Illinois since 2005, in a negligence and strict liability action brought against multiple defendants, which include the Debtors, as a result of a house fire stemming from a television purchase and servicing that killed three children in the Movants’ family. The Movants request this relief in an expedited fashion because of several reasons, any of which constitute “cause” under the Bankruptcy Code and local common law definitions of same and collectively certainly constitute “cause”. Those reasons for seeking expedited relief include, but are not limited to, the unique facts and circumstances presented by this very usual, sympathetic, and unfortunate case: (1) the delay to the state court litigation that will be caused by the Debtors’ bankruptcy case for many months if not a year or more; (2) the position of the state court judge in the pre-petition litigation who will not proceed with any part of that litigation short of a lifting of the automatic stay from this Court and has

advised all counsel of same; (3) the extreme prejudice to the Movants' family and prolonging of their grief and loss of three children associated with litigation delays, expense, costs, and more hearings and legal proceedings associated with the bankruptcy case and with rescheduling and postponing the state court litigation; and (4) time-sensitive developments in that state court litigation, including a significant hearing to be held on **December 4, 2008**, addressing key discovery issues that are a prerequisite to setting the trial date before the assigned judge, multiple sanctions motions, recusal of the sitting judge which is opposed by the Debtors and Movants alike, an inspection testing of the subject television that requires all parties and their experts to participate because of the destruction of the equipment in same, and several key depositions previously-scheduled for prior and coming weeks, with some of the aforementioned items now needing to be rescheduled due to the filing of this bankruptcy case. A hearing, inspection involving multiple out-of-area experts, and several depositions have already had to be cancelled and postponed due to this bankruptcy case filing.

The Movants further expressly incorporate by reference hereto without repeating herein, the arguments and authorities cited in their previously-filed accompanying motion for relief.

CERTIFICATION PER LOCAL BANKRUPTCY RULE 9013-1(N)

Movants and their counsel certify herein pursuant to *Local Bankruptcy Rule 9013-1(N)*, that the proponent, the Movants and their counsel, have: (1) carefully examined the matter and concluded that there is a true need for an emergency hearing; (2) not created the emergency through any lack of due diligence, as undersigned counsel was only recently retained in this matter and Movants have no control over the bankruptcy case of Debtors filed on November 10, 2008, necessitating this Amended Expedited Motion and Movants' filings herein; and (3) have made a *bona fide* effort to resolve the matter without a hearing through negotiations with several

of Debtors' counsel prior to the filing and which are ongoing in good faith in an effort to narrow issues and/or resolve the matter.

PRAYER FOR RELIEF:

WHEREFORE, the Movants, by counsel, respectfully request that this Honorable Court
(a) grant this Amended Expedited Motion, as well as the accompanying and previously-filed Motion for Relief from Stay; and (b) grant such other and further relief in favor of the Movants as the Court deems just and proper.

Dated: December 2, 2008

Respectfully Submitted,

**REVEREND DWAYNE FUNCHES,
INDIVIDUALLY, AND AS INDEPENDENT
EXECUTOR OF THE ESTATES OF TRAVIS
FUNCHES, DIONE FUNCHES, AND DWAYNE
FUNCHES, JR., EMILY FUNCHES, LOVERA
FUNCHES, AND SHATIRA FUNCHES,
INDIVIDUALLY**

By Counsel

/s/ Lisa Taylor Hudson

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